



General Assembly

**Substitute Bill No. 5241**

February Session, 2004

\* \_\_\_\_\_ HB05241JUD \_\_\_\_\_ 032204 \_\_\_\_\_ \*

**AN ACT CONCERNING SHELLFISHING VIOLATIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 26-192f of the general statutes, as amended by  
2 section 146 of public act 03-6 of the June 30 special session, is repealed  
3 and the following is substituted in lieu thereof (*Effective July 1, 2004*):

4 Any person, firm or corporation (1) harvesting or taking shellfish  
5 from an area closed and posted by the Department of Agriculture and  
6 Consumer Protection against the [taking] removal of shellfish, except  
7 as provided in section 26-192h, or an area closed by commercial  
8 shellfish transplant license issuance or by order of the local director of  
9 health with the approval of the department, (2) misusing any shipping  
10 tag or license in violation of section 26-192c, as amended, (3)  
11 mislabeling shellfish shipments or deliveries with any false  
12 information, (4) failing to identify shellfish shipments or deliveries in  
13 accordance with regulations adopted by the department, [or] (5)  
14 [failing to surrender a license to the department upon request,]  
15 harvesting shellfish from undesignated grounds, or (6) harvesting  
16 shellfish from designated grounds not listed on a license issued by the  
17 Department of Agriculture and Consumer Protection to such person,  
18 firm or corporation shall be fined [not less than fifty dollars nor more  
19 than] (A) one thousand dollars, or (B) three times the market value of  
20 any shellfish taken, based on the quantity and type [,] involved in the

21 violation if such amount is greater than one thousand dollars, or  
22 imprisoned not more than twelve months and shall surrender any  
23 such shellfish license to the department upon request. The  
24 Commissioner of Agriculture and Consumer Protection may revoke  
25 any license issued by said commissioner for ninety days for the first  
26 violation of this section, one hundred eighty days for a second  
27 violation of this section, one year for a third violation and permanently  
28 for a fourth violation. Any person who defaces or removes a sign  
29 posted by the Department of Agriculture and Consumer Protection in  
30 accordance with the provisions of section 26-192e, as amended, shall  
31 be fined not more than five hundred dollars or imprisoned not more  
32 than six months. The provisions of this section are in addition to and in  
33 no way derogate any other enforcement provisions or penalties  
34 contained in any other section of the general statute.

35 Sec. 2. Section 26-235 of the general statutes, as amended by section  
36 146 of public act 03-6 of the June 30 special session, is repealed and the  
37 following is substituted in lieu thereof (*Effective July 1, 2004*):

38 (a) No person shall take any long clams less than one and one-half  
39 inches in length, provided the Waterford-East Lyme shellfish  
40 commission may make such residency requirements for digging or  
41 taking clams from the shores or waters of the Niantic River as it deems  
42 reasonable and in the best public interest of the Waterford-East Lyme  
43 area. Unless otherwise provided by statute, regulation or local  
44 ordinance, the recreational harvest limit of clams shall not exceed  
45 one-half bushel per person daily. The Commissioner of Agriculture  
46 and Consumer Protection may designate by regulations adopted in  
47 accordance with the provisions of chapter 54 shores and waters for the  
48 exclusive recreational harvesting of clams. For the purposes of this  
49 section, recreational harvest of clams means the collection of clams by  
50 an individual for [his own or his family's consumption] personal  
51 consumption or consumption by such individual's family.

52 (b) The common council of any consolidated town and city and the  
53 selectmen of any other town may determine the quantity of clams to be

54 taken therein by a person during one day and may prohibit, for a  
55 period not exceeding one year, the taking of clams from any waters or  
56 beaches they may designate within the territorial limits of such town, if  
57 they deem such prohibition necessary for the protection of the natural  
58 clam areas, by posting notices on such designated territorial limits  
59 stating that the taking of clams within such areas is prohibited.

60 (c) Any person who violates any provision of subsection (a) or (b) of  
61 this section shall have committed an infraction.

62 (d) Any person who takes clams from an area closed and posted  
63 against the taking of clams by the Department of Agriculture and  
64 Consumer Protection, or from an area closed by license issuance or by  
65 order of a local health department shall be fined not less than seventy-  
66 five dollars nor more than one thousand dollars or three times the  
67 market value of any clams taken, based on the quantity and type  
68 involved in the violation, if such amount is greater than one thousand  
69 dollars, or imprisoned not more than twelve months.

70 (e) Any person who defaces or removes a sign posted by the  
71 Department of Agriculture and Consumer Protection, in accordance  
72 with the provisions of section 26-192e, as amended, shall be fined not  
73 more than five hundred dollars or imprisoned not more than six  
74 months.

This act shall take effect as follows:	
Section 1	July 1, 2004
Sec. 2	July 1, 2004

**Statement of Legislative Commissioners:**

In section 1, the opening bracket before the fine amount was moved for accuracy.

**ENV** Joint Favorable C/R

JUD

**JUD** Joint Favorable Subst.-LCO